

401 KAR 45:140. Conditions applicable to all special waste permits.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.46, 224.50, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-305, 224.50-760

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 requires the cabinet to adopt administrative regulations for the management, processing, or disposal of wastes. KRS 224.40-305 requires persons who establish, construct, operate, maintain or permit the use of a waste site or facility to obtain a permit. This chapter establishes the permitting standards for special waste sites or facilities, and the standards applicable to all special waste sites or facilities. This administrative regulation sets forth the conditions applicable to all special waste permits.

Section 1. Conditions Applicable to All Permits. The conditions applicable to a special waste site or facility shall be incorporated into the permit either expressly or by reference.

(1) Duty to comply. The owner or operator shall comply with all conditions of the permit and all approved plans in the permit application. Any permit noncompliance constitutes a violation of the appropriate Kentucky Revised Statute and is grounds for enforcement action that may result in revocation, modification, or denial of a permit application.

(2) Duty to reapply. If the owner or operator wishes to continue an activity regulated by the permit after the expiration date of the permit, if applicable, the owner or operator shall apply for and obtain a new permit.

(3) Duty to halt or reduce activity. It shall not be a defense for an owner or operator in an enforcement action to claim necessity to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit. The owner or operator shall comply with this chapter before commencing operations.

(4) Duty to mitigate. In the event of noncompliance with the permit, the owner or operator shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health and the environment.

(5) Proper operation and maintenance. The owner or operator shall at all times properly operate and maintain all facilities and systems of treatment and control that are installed or used by the owner or operator to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and process controls, including appropriate quality assurance procedures.

(6) Permit actions. The permit may be modified or revoked for cause. The filing of a request by the owner or operator for a permit modification, revocation, or termination, or a notification of planned changes or anticipated noncompliance, shall not stay any permit condition.

(7) Property rights. The permit shall not convey any property rights or any exclusive privilege.

(8) Duty to provide information. The owner or operator shall furnish the cabinet with any information that the cabinet reasonably requests to determine whether cause exists for modifying, revoking, or terminating the permit, or to determine compliance with the permit or any provision of KRS Chapter 224 or this chapter. The owner or operator shall also furnish to the cabinet upon request copies of records required to be kept by the permittee.

(9) Inspection and entry. The owner or operator shall allow the cabinet or its authorized representative to:

(a) Enter upon the owner's or operator's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of the permit;

(b) Have access to and copy at reasonable times any records that are kept under the conditions of the permit;

(c) Inspect any facility's equipment, including monitoring and control equipment, practices, or op-

erations regulated or required under the permit; and

(d) Sample or monitor, for the purposes of assuring permit compliance or determining compliance with KRS Chapter 224 or this chapter, any substances or parameters at any location.

(10) Signatory requirement. All applications, reports, and information submitted to the cabinet shall be signed and certified in accordance with Section 10 of 401 KAR 45:030.

(11) Authorization to operate. For a new special waste site or facility, or a facility undergoing an expansion or modification as stated in 401 KAR 45:040, the owner or operator shall not commence storage, treatment, or disposal of special waste in the modified portion of the facility until:

(a) The owner or operator has submitted to the cabinet, by certified mail or hand delivery, a request for the issuance of a construction/operation permit signed by the owner or operator stating that the facility has been constructed or modified in compliance with the construction permit. The request shall be accompanied by a fee specified in Section 2(1)(d) of 401 KAR 45:250; and

(b) The cabinet has inspected the newly constructed or modified facility and issued a special waste construction/operation permit or modified construction/operation permit.

(12) Transfers. The permit shall not be transferable to any person without prior approval of the cabinet. Proposed new owners or operators shall submit a complete transfer permit application to the cabinet in accordance with Section 3 of 401 KAR 45:040.

(13) Monitoring reports. Monitoring results shall be reported at the intervals specified in the approved permit application.

(14) Compliance schedules. Reports of compliance with, or any progress reports on, requirements contained in any compliance schedule of the permit shall be submitted no later than fourteen (14) days following each scheduled date.

(15) Reports. Periodic reports as required in this chapter or in the permit shall be submitted to the cabinet on a timely basis.

(16) Other information. If the owner or operator fails to submit any relevant facts in a permit application, or submits incorrect information in a permit application or in any report to the cabinet, he shall promptly submit the facts or correct information.

Section 2. Establishing Permit Conditions. In addition to conditions required for all permits in Section 1 of this administrative regulation, the cabinet shall establish conditions on a case-by-case basis in permits. The cabinet may incorporate applicable requirements directly into the permit. Each special waste permit issued by the cabinet shall contain conditions as the cabinet determines necessary to protect human health and the environment. (18 Ky.R. 3109; eff. 6-24-1992; Crt eff. 9-5-2018.)